

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Michael Barr,

Plaintiff,

v.

Cleveland Metroparks,

Defendant.

Civil Case No. _____

JUDGE _____

***Defendant's Notice of Removal of a Civil
Action to the United States District Court***

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO, EASTERN DIVISION**

Defendant Cleveland Metroparks, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446,
seek removal of this action and state as follows:

1. Plaintiff was one of the plaintiffs in *Barr, et al. v. Cleveland Metroparks*, N.D. Ohio Case No. 1:17-cv-1390 (“*Barr I*”) a lawsuit that arose under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et seq.*, before the Honorable Sara Lioi.

2. On February 2, 2018, Judge Lioi issued a Memorandum Opinion approving a settlement agreement resolving the plaintiffs’ claims under the FLSA in *Barr I*. The Memorandum Opinion stated that the Court would retain jurisdiction over that action to enforce the terms of the settlement. That same day, Judge Lioi also issued a Judgment Entry, again stating that the Court “retains jurisdiction over this action to enforce the terms of the settlement.” A true and correct copy of the February 2, 2018 Memorandum Opinion and Judgment Entry are attached hereto as Exhibits 1 and 2, respectively.

3. On November 16, 2018, Plaintiff commenced a civil action against Defendant in the Cleveland Municipal Court, Case No. 2019 CI 00230.

4. The Cleveland Municipal Court issued a Summons upon Defendant on January 10, 2019. A true and correct copy of the Complaint and Summons served upon Defendant is attached hereto as Exhibit 3.

5. Plaintiff's Complaint involves a claim that is barred by the settlement agreement resolving Plaintiff's FLSA claims in *Barr I*, an agreement that under which this Court retained jurisdiction. Thus, this Court has ancillary federal question jurisdiction over Plaintiff's claims in this civil action pursuant to 28 U.S.C. § 1331 and supplemental jurisdiction pursuant to 28 U.S.C. § 1367. *See, e.g., 202 N. Monroe, LLC v. Sower*, 850 F.3d 265, 271 (6th Cir. 2017).

6. Accordingly, Plaintiff's Complaint is properly removable to this Court pursuant to 28 U.S.C. § 1441(a).

7. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b) in that it is filed within thirty (30) days of Defendant's receipt of the Summons and Complaint on January 10, 2019.

8. Defendant is filing a Notice of Filing Notice of Removal in the Cleveland Municipal Court contemporaneously with filing this Notice of Removal, as required by 28 U.S.C. § 1446(d). A true and correct copy of Defendant's Notice of Filing Notice of Removal is attached hereto as Exhibit 4 (not including its exhibit).

9. Defendant will provide prompt written notice to Plaintiff that Defendant has filed this Notice of Removal in accordance with 28 U.S.C. § 1446(d).

Defendant respectfully requests that this Notice effect removal of the above-captioned case from the Cleveland Municipal Court.

Respectfully submitted,

ZASHIN & RICH CO., L.P.A.

s/ Lauren M. Drabic

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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2019, the above Notice of Removal was served via

Federal Express upon:

Michael Barr
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Lakewood, Ohio 44107

s/ Lauren M. Drabic

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One of the Attorneys for Defendant